

Introduction

This manual describes in simple terms the civil appellate process and the related California Rules of Court (referred to in this manual as CRC) that were in effect as of January 1, 2004. The manual is for persons who represent themselves (also called “self-represented litigants” and those “in pro per” or “in pro se”) and attorneys with little or no appellate experience who are bringing civil appeals to the California Court of Appeal. It does not cover criminal or juvenile dependency appeals. The materials included here are not legal advice and should not be used as legal authority. The manual is not intended to replace the CRC, which are the legal authority for the practices described here and which are referred to throughout the text as follows: CRC, rule and a number. In the event the information here is not the same as in the CRC, you should use the CRC.

The process of appealing a civil case is presented as a series of steps. Many of the steps are in the form of questions that you need to answer in the order shown. This manual answers some questions and guides you in answering others.

In the back of this manual are the forms, for the Fifth Appellate District, that are most often used in appeals and are referred to in this manual. Each form has instructions and a blank for you to copy and use in your appeal if you wish to do so and are filing in the Fifth Appellate District. If you want to take home a **file-stamped** copy of the filed document for your personal files, you should (1) bring an extra copy if you are going to the court in person *or* (2) include an extra copy of the document and a self-addressed, stamped envelope if you are delivering your document by mail.

For filing, briefing, and/or arguing your appeal, think about hiring an attorney if you are able to do so. Bringing a case to the Court of Appeal without an attorney is hard work and takes a good deal of time. If you are self-represented, you are held to the same level of work as if you were an attorney. In most cases, you have only one chance to have the court hear your case. In addition, you must follow all of the court’s rules and procedures.¹ If you do not, your case may be dismissed. An attorney who has done some appeals and knows how to handle them will know what to do, when, and can guide your case through the court process.

¹ See CRC rules 1–80 if you are appealing from the general jurisdiction of the superior court to the Court of Appeal. Appeals from the limited jurisdiction of the superior court to the appellate division of the superior court are covered by CRC rules 100–144 and are not discussed in this manual. Rules are available at any law library, on the Internet at www.courtinfo.ca.gov/rules, and can be ordered for \$27 by calling 1-800-328-9352.

Do not expect to win if you are the appealing party. Only about 15 percent of civil appeal cases are reversed. The Court of Appeal does not retry the case; it reviews the superior court trial or hearing for errors of law. On appeal, the Court of Appeal does not take new evidence, reweigh the evidence presented in the superior court, or figure out who had the better case. The Court of Appeal does not rule for one side because it has more evidence than the other side. It rules on the *quality* of the evidence presented. The Court of Appeal does not second-guess the superior court judge or jury that ruled on the evidence and find in your favor simply because you have more witnesses or more evidence than the other side. The Court of Appeal presumes the superior court judgment is correct. Not only must there be a mistake or error of law for the case to be reversed, but the alleged mistake must have been pointed out through an objection to the superior court judge. In other words, your attorney—or you, if self-represented in superior court—must have made an objection during the trial. If there was a mistake, it has to have been big enough that it made a difference to the outcome of the case.

If you do not pay fees and file papers on time, your appeal may be dismissed as having been “abandoned” by you. This happens because the Court of Appeal assumes that if you do not take care of the things that need to be done, you are no longer interested in going forward with your case. You will always get a notice that the case is going to be dismissed before it happens so you will have a chance to do whatever is needed to keep the appeal going. But if you do not promptly do what is needed, the appeal will be dismissed. It is also important to tell the superior court, the Court of Appeal, and all counsel and self-represented parties about any change in your address or telephone number. You can do this by serving and filing a change of address with both courts.

The appeals section of the superior court processes the *Notice of Appeal* and designation of the record, prepares the record for the appeal, and certifies the record to the Court of Appeal. After you have filed your *Notice of Appeal*, the superior court will send a copy of it to the Court of Appeal, where it will be given an appellate court case number. Any papers, pleadings, or briefs you file should have this number on the cover (if you use a cover) or on the first page.

You may not visit or talk about your case with a justice or a member of his or her staff. The Court of Appeal clerk’s office will help you as much as they can, but they cannot give you legal advice or tell you what to put in your papers.